

SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL

People v. _____ Case No. _____

Advisement of Rights, Waiver, and Plea Form

First Offense Only - Vehicle Code §23152

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial each applicable item **only** if you understand it. If you have any questions about your case, the possible sentence, or the information on this form, ask your lawyer or the judge.

RIGHT TO A LAWYER

1. I understand that I have the right to be represented by a lawyer throughout the proceedings. I understand that the Court will appoint a free lawyer for me if I cannot afford to hire a lawyer, but at the end of the case I may be asked to pay all or part of the cost of that lawyer, if I can afford to. I understand that there are dangers and disadvantages to giving up my right to a lawyer and that it is almost always unwise to represent myself ☐
2. I give up my right to a lawyer, and I choose to represent myself. (Does not apply if you have a lawyer) ☐

NATURE OF THE CHARGES (Initial all sections you are charged with.)

I understand that I am **charged** with a violation of **Vehicle Code** section(s):

3. **23152(a)** – Driving under the influence of alcohol or drugs, or both ☐
4. **23152(b)** – Driving when my blood-alcohol level was .08 percent or higher ☐
5. **23103 under 23103.5** – Reckless driving involving alcohol or drugs, or both. I understand that this means that if, in the next ten years, I am arrested for driving under the influence or driving when my blood-alcohol level was .08 percent or higher, and I am convicted of that charge, I will be sentenced under the increased penalties the law provides for subsequent convictions ☐

CONSTITUTIONAL RIGHTS/WAIVER OF RIGHTS

6. **RIGHT TO A JURY TRIAL** – I understand that I have a right to a speedy, public jury trial. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt. ☐
7. I give up my right to a jury trial ☐
8. **RIGHT TO CONFRONT WITNESSES** – I understand that I have the right to confront and cross-examine all witnesses testifying against me ☐
9. I give up my right to confront and cross-examine witnesses ☐
10. **RIGHT AGAINST SELF-INCRIMINATION** – I understand that I have the right to remain silent and not incriminate myself, and the right to testify in my own behalf. I understand that by pleading guilty or no contest, I am incriminating myself ☐
11. I give up my right to remain silent and to not incriminate myself ☐
12. **RIGHT TO PRODUCE EVIDENCE** – I understand that I have the right to present evidence and to have the Court issue subpoenas to bring into Court all witnesses and evidence favorable to me, at no cost to me ☐
13. I give up my right to produce evidence and witnesses in my own behalf ☐

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

14. I understand that if I am not a citizen, of the United States, I have the right to seek the advice and assistance of the consulate of the country of my citizenship. I am further advised that conviction of any crime may adversely affect my immigration status, and could result in deportation or exclusion from the United States, denial of admission to the United States, or denial of naturalization, amnesty, or certain federal benefits ☐
15. I understand that a plea of **no contest** (nolo contendere) will have exactly the same effect in this case as a plea of guilty, but it cannot be used against me in a civil lawsuit ☐

Sentences for Driving Under the Influence of Alcohol and/or Drugs (Section 23152)		
Offense	Minimum and maximum sentences when probation is granted (3 to 5 year probation term)	Minimum and maximum sentences without probation
First offense within 10 years	Two options, both requiring attendance at an alcohol/drug program, a fine of \$390 to \$1,000, plus either: (A) 48 hours to 6 months in jail; <i>or</i> (B) A 90-day license restriction allowing driving for work and alcohol/drug program only. Under either option, the Court <i>may</i> also suspend my license for 6 months.	96 hours to 6 month in jail; \$390 to \$1,000 fine, and a 6-month license suspension.
Second offense within 10 years	Two options, both carrying a fine of \$390 to \$1,000, plus either; (A) 10 days to 1 year in jail and an 18-month license suspension; <i>or</i> (B) 48 continuous hours to 1 year in jail. an 18-month or 30-month alcohol/drug program, and a 1-year license restriction allowing driving for work and alcohol/drug program only.	90 days to 1 year in jail, \$390 to \$1,000 fine, and an 18-month license suspension.
Sentences for Reckless Driving (§23103 under §23103.5)		
Nature of offense	Minimum and maximum sentences	Other
Reckless driving reduced from driving under the influence	If probation is <i>not</i> granted: 5 days to 90 days in jail, <i>or</i> 45 to \$1,000, <i>or</i> both. If probation <i>is</i> granted: a maximum of 90 days in jail, <i>or</i> \$1,000 fine, <i>or</i> both.	If alcohol or drugs are involved, this conviction will act as a separate conviction for driving under the influence (DUI) if I commit a subsequent DUI offense within ten years.

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16. I have read and understood the above chart which lists the minimum and maximum sentences for the offense(s) I am charged with ☐
17. I understand that in addition to the fine imposed, the law requires the Court to add **assessments** which will **significantly increase the amount I must pay**. I understand that I may also be ordered (1) to make **restitution** to the victim, if the offense involved a victim, or to a Restitution Fund, and (2) to pay the **expenses** incurred by a public agency which responded to any incident caused by my vehicle at the time of my arrest ☐
18. I understand that if it is alleged that I recklessly drove **30** or more miles above the speed limit on a **freeway**, or **20** or more miles above the speed limit on any other **street or highway**, the Court may impose an **additional consecutive term of 60 days in the county jail**. If this is my **first** offense, the Court may also order me to complete an alcohol/drug counseling program ☐
19. **If applicable** – I understand that if I was **under** the age of **21** at the time of my arrest, in addition to the penalties in the above chart, my driver's license shall be **suspended for one year** and I must **surrender** my license to the Court. If I do not have a valid license at the time of my conviction, the Court shall order the DMV to **delay** issuing a license to me for **one year** after I become eligible to drive ☐
20. **If applicable** – I understand that if I am convicted of a first violation of Vehicle Code §23152, and the offense occurred in a vehicle which requires a **class 1 or class 2** (or **class A** or **class B**) driver's license, my license shall be **suspended for six months** even if probation is granted ☐
21. **If applicable** – I understand that if my blood-alcohol content was **.20 percent or above**, or if I **refused** to submit to a chemical test, the Court shall consider this in determining whether to enhance the penalties imposed on me, whether to grant probation, or whether to impose additional terms and conditions of probation ☐
22. I understand that if I am convicted of a first violation of Vehicle Code §23152, the Court may order my vehicle **impounded** at my expense for up to **30 days** ☐
23. I understand that the Department of Motor Vehicles (DMV) may restrict, suspend, or revoke my license under an administrative procedure which is separate from this criminal action. If such a procedure is used, the DMV may also require me to attend an alcohol/drug program before my license will be restored. I understand that the DMV's action, if any, will be **in addition** to the Court's sentence and that I must obey it ☐
24. I understand that the DMV will not issue a restricted license or restore my driving privilege following a restriction suspension, or revocation unless I have **proof of successful completion of a licensed driving-under-the-influence program, proof of valid insurance** and maintain it for **three years**. The DMV will **suspend** my license: **(1)** until proof of insurance is provided by my insurance company to the DMV, **(2)** upon my failure to maintain such proof during the three-year period and **(3)** the DUI program provide the completion certificate to DMV ☐

25. I understand that the DMV may consider any of my **prior convictions** for driving under the influence or reckless driving which are **not charged** in this proceeding and impose a more severe license restriction, suspension, or revocation as a result of my uncharged conviction(s)..... ☐
26. I understand that any plea entered in this case may be grounds for **revoking probation or parole** which has been previously imposed on me in any other case..... ☐
27. I understand the charge(s) against me, and the possible plea(s) and defenses..... ☐
28. I am advised and understand that being under the **influence of alcohol or drugs, or both**, impairs your ability to safely operate a motor vehicle. Therefore, it is **extremely dangerous** to human life to **drive** while under the **influence of alcohol or drugs, or both**. If I **continue** to drive while under the influence of alcohol or drugs, or both and, as a result of that driving, someone is killed, I can be charged with **murder**..... ☐

PLEA(S)

29. I hereby freely and voluntarily plead _____ to _____
(guilty or no contest) ☐

(list charge (s))
30. I understand that I have the right to wait from **six hours to five days** prior to being sentenced. I give up this right and agree to be sentenced at this time ☐
31. **If applicable** - I understand that I have the right to enter my plea before, and be sentenced by a judge. I give up this right and agree to enter my plea before, and be sentenced _____
Temporary Judge ☐

Date **Defendant's Signature**

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have gone over the form with my client. I have explained each of the defendant's rights to the defendant, and answered all of the defendant's questions with regard to this plea. I have discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and the defendant's decision to waive constitutional rights.

DATE: _____ **SIGNED:** _____
Attorney for Defendant

INTERPRETER'S STATEMENT (IF APPLICABLE)

I, _____, having been duly sworn, truly translated this form to the defendant in the _____ language. The defendant indicated that (s)he understood the contents of the form, and (s)he then initialed the form.

DATE: _____ **SIGNED:** _____
Court Interpreter

COURT FINDINGS AND ORDER

The Court, having reviewed this form and having questioned the defendant concerning the defendant's constitutional rights, finds that the defendant has expressly, knowingly, understandingly and intelligently waived his or her constitutional rights. The Court finds that the defendant's plea is freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The Court accepts the defendant's plea and the defendant is convicted on his or her plea.

The Court orders this form filed and incorporated in the docket by reference as though fully set forth therein.

DATE: _____ **SIGNED:** _____
Judge of the Superior Court

SIGNED: _____
Temporary Judge of the Superior Court